

**CUSTOMER NO.: 24498****Serial No. 09/914,683**

Reply to Office Action dated: 08/02/06

Response dated: 10/24/06

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**CENTRAL FAX CENTER****PATENT**  
**PD990013****OCT 24 2006****REMARKS**

In the Final Office Action, the Examiner stated that claims 1-7 are pending in the application and that claims 1-7 stand rejected. By this response, the Applicant's claim 1 has been amended to more clearly define the invention of the Applicant and not in response to prior art.

In view of the amendments presented above and the following discussion, the Applicant respectfully submits that none of these claims now pending in the application are anticipated under the provisions of 35 U.S.C. § 102. Thus, the Applicant believes that all of these claims are now in allowable form.

**Rejections****A. 35 U.S.C. § 102**

The Examiner rejected the Applicant's claims 1-7 under 35 U.S.C. § 102(e) as being anticipated by Gotoh (US Patent Application No. 2006/0093336). The rejection is respectfully traversed.

The Examiner alleges that regarding claim 1, Gotoh discloses a method for recording real-time files containing real-time data including all of the aspects of the Applicant's invention. The Applicant respectfully disagrees.

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim" (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1983)). (emphasis added). The Applicant respectfully submits that Gotoh fails to teach each and every element of at least the Applicant's claim 1, which specifically recites:

"Method for recording real-time files containing real-time data, comprising:

permanently assigning real-time file attributes to the real-time files and concomitantly recording the real-time file attributes together with the real-time files, the real-time file attributes describing hardware independent real-time requirements of the real-time files during a real-time file transfer

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for playback of the real-time files, wherein at least the following real-time file attributes are provided:

- a) a guaranteed minimum transfer rate during the real-time file transfer,
  - b) a maximum transfer rate during the real-time file transfer,
  - c) a buffer store size used during the real-time file transfer,
- and

deriving rules for recording the real-time files from the real-time file attributes in order to ensure that the real-time properties of the real-time files are preserved during the recording process."

The Applicant's claim 1 specifically claims that real-time file attributes are ***permanently assigned*** to the real-time files. Furthermore, claim 1 specifically claims that the real-time file attributes are ***concomitantly recorded together with the real-time files***. Even further, the Applicant's claim 1 claims that the real-time file attributes are describing ***hardware independent*** real-time requirements of the real-time files.

In contrast to the invention of the Applicant, Gotoh discloses analyzing a disc structure in case of a DVD RAM to find contiguous sector areas large enough and lying close enough for AV recording which guarantee uninterrupted reproduction of the video and audio signals. Such areas can be separated by defect sectors or data fragments or the so-called spare areas of the DVD RAM. The invention of Gotoh ensures that complete ECC blocks are always written. For the selection of the areas, implicit knowledge of the standardized reference decoder is necessary. Since such general limits for transfer rates and buffer store size, as specified for example in DVD standards like the DVD VR specification, have to be valid for all kinds of real-time files, they are usually much too large.

On the contrary, in the invention of the Applicant real-time file attributes can be "tailored" to a specific real-time file independent of the hardware used. Since these real-time file attributes are adapted to the specific real-time file, they are permanently assigned to the real-time file and accompany the real-time file in a recording process. This enables the use of smaller fragments on a data carrier, which can also lay further apart on the data carrier, without destroying the real-time properties, which means no interruptions in the playback. In contrast to the invention of Gotoh, the invention of the Applicant enables an intermediate storage

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of a real-time file on a storage medium. After a further copy to a fast storage medium and taking into account the real-time file attributes also intermediately stored on the slow storage medium, a real-time playback of the file is still possible.

For at least the reasons recited above, the Applicant respectfully submits that Gotoh absolutely fails to teach, suggest or anticipate each and every element of the claimed invention, arranged as in the claim and specifically at least that real-time file attributes are ***permanently assigned*** to the real-time files, and that the real-time file attributes are ***concomitantly recorded together with the real-time files*** and that the real-time file attributes are describing ***hardware independent*** real-time requirements of the real-time files as taught in the Applicant's Specification and claimed by at least the Applicant's claim 1.

Therefore, the Applicant submits that for at least the reasons recited above, independent claim 1 is not anticipated by the teachings of Gotoh and, as such, fully satisfies the requirements of 35 U.S.C. § 102 and is patentable thereunder.

Furthermore, dependent claims 2-7 depend either directly or indirectly from independent claim 1 and recite additional features therefor. As such and for at least the reasons set forth herein, the Applicant submits that dependent claims 2-7 are also not anticipated by the teachings of Gotoh. Therefore the Applicant submits that dependent claims 2-7 also fully satisfy the requirements of 35 U.S.C. § 102 and are patentable thereunder.

The Applicant reserves the right to establish the patentability of each of the claims individually in subsequent prosecution.

#### Applicant's Note

The Applicant would like to note as part of the Official Record that the Examiner cited Gotoh (US Patent Application No. 2006/0093336) for attempting to anticipate the invention of the Applicant under the provision of 35 U.S.C. § 102(e). Gotoh (US Patent Application No. 2006/0093336) was published May 04, 2006, after the priority date of the Applicant's application, and is a divisional of Application No. 10/424,476, filed on Apr. 28, 2003, which is a continuation of application No. 09/552,922, filed on Apr. 20, 2000, now Pat. No. 6,574,420, which

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is a continuation of application No. 09/077,473, filed on Aug. 10, 1998, now Pat. No. 6,292,625.

The Applicant would again like to point out to the Examiner that the Applicant's priority date is March 3, 1999. The Applicant points out that the only application in the Gotoh family that pre-dates the Applicant's priority date is application No. 09/077,473, filed on Aug. 10, 1998, now Pat. No. 6,292,625. The Applicant does not understand why the Examiner cited Gotoh (US Patent Application No. 2006/0093336), which has a publication date of May 04, 2006, instead of citing Pat. No. 6,292,625 having a priority date of Aug. 10, 1998 to attempt to anticipate the Applicant's invention. The Applicant respectfully submits that if the teachings of Pat. No. 6,292,625 (Gotoh's priority application) do not support the teachings of claims of Gotoh (US Patent Application No. 2006/0093336), then the Gotoh reference is an improper 102(e) reference with respect to the Applicant's present application. Although the Applicant has herein provided arguments as to why Gotoh (US Patent Application No. 2006/0093336) does not anticipate the invention of the Applicant, the Applicant reserves the right in subsequent prosecution to determine if the priority application No. 09/077,473, filed on Aug. 10, 1998, now Pat. No. 6,292,625 supports the teachings and claims of Gotoh (US Patent Application No. 2006/0093336) to determine if Gotoh is a proper 102(e) reference with respect to the Applicant's present application.

#### Conclusion

Thus the Applicant submits that none of the claims, presently in the application, are anticipated under the provisions of 35 U.S.C. § 102(e). Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, or if the Examiner believes a telephone interview would expedite the prosecution of

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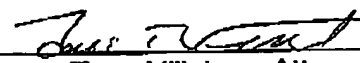
the subject application to completion, it is respectfully requested that the Examiner telephone the undersigned.

No fee is believed due. However, if a fee is due, please charge the additional fee to Deposit Account No. 07-0832.

Respectfully submitted,

Marco Winter

By:

  
Jorge Tony Villabon, Attorney  
Reg. No. 52,322  
(609) 734-6445

Patent Operations  
Thomson Licensing Inc.  
P.O. Box 5312  
Princeton, New Jersey 08543-5312

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